

EMPLOYEES' RETIREMENT SYSTEM OF THE COUNTY OF MILWAUKEE
MINUTES OF THE JANUARY 17, 2007 PENSION BOARD MEETING

1. Call to Order

Chairman Dean Roepke called the meeting to order at 8:43 a.m. in the Green Room of the Marcus Center, 127 East State Street, Milwaukee, WI 53202.

2. Roll Call

Members Present:

Linda Bedford
Donald Cohen
John Martin (Vice Chairman)
Marilyn Mayr
Michael Ostermeyer
John Parish
Dr. Sarah Peck
Dr. Dean Roepke (Chairman)
Thomas Weber

Members Excused:

None

Others Present:

Mark Grady, Principal Assistant Corporation Counsel
Jack Hohrein, ERS Manager and Pension Board Secretary
Vivian Aikin, ERS Administrative Specialist
Veronica Britt, ERS Coordinator
Dr. Karen Jackson, Department of Human Resources
Steven Huff, Reinhart Boerner Van Deuren s.c.
Leigh Riley, Foley & Lardner LLP
Brad Blalock, Mercer Investment Consulting
Kristin Finney-Cooke, Mercer Investment Consulting
Jim Miles, Hotchkis and Wiley Capital Management
Gerald Hanson, ERS Member
Attorney Dan Shneidman, representing Gerald Hanson
Cliff Van Beek, Retiree
Ken Loeffel, Retiree
Florence Ignarski, Retiree
Nancy Beck-Metz, Retiree
Louis Metz, Retiree
Yvonne Mahoney, Retiree

3. Chairman's Report

(a) Swearing In of New Member

The Chairman noted that Dr. Peck, who had been introduced at the December Board meeting, had been subsequently sworn in as a Board member.

(b) Changes in the Department of Human Resources and the Department of Administrative Services

The Chairman explained that after the retirement of Charles McDowell, Director of Human Resources, effective January 5, 2007, Deputy Director Dr. Karen Jackson is leading the Department of Human Resources. The Chairman welcomed Dr. Jackson and invited her to join the Board at the February 21, 2007 annual meeting.

In addition, the Chairman informed the Board that Linda Seemeyer had resigned her position with the Department of Administrative Services.

(c) Report on Annual Meeting

The Chairman outlined his plan for the Chairman's address, which will open the annual meeting. First, he will introduce the Board members and others, including Mr. Blalock or Ms. Finney-Cooke, to the retirees. Next, the Chairman stated that he would address the progress on the computer conversion. He also plans to use his address to encourage the retirees to receive their pension checks through direct deposit. In addition, he will review the litigation outcomes in 2006. The Chairman will explain to the retirees that ERS was 76 percent funded as of 2006. Finally, he will remark that ERS enjoyed an unaudited investment return of 14.2 percent for 2006.

After the Chairman's address, the scheduled speakers are: Buck Consultants, Gordon Mueller, Mr. Blalock or Ms. Finney-Cooke and a money manager guest speaker.

Ms. Mayr stated that District Council 48 and REMCO representatives had requested that the annual meeting menu include a fish option because the annual meeting is being held on Ash Wednesday. At the Chairman's request, Mr. Loeffel agreed to email Mr. Hohrein with any additional ideas for the annual meeting.

(d) Benefit Payment Policies

The Chairman reported that Mr. Hohrein had prepared policies for direct deposit of pension checks and check replacements. He indicated that there will be a table at the annual meeting to encourage retirees to use direct deposit. In response to a question from Mr. Martin, the Chairman noted that the direct deposit policy will be referred to the Audit and Compliance Committee for action. Further, the Chairman indicated that Mr. Parish will be involved in the January 25, 2007 District Council 48 ratification vote on a new collective bargaining agreement. Therefore, the Chairman will be chairing the Audit and Compliance Committee meeting in Mr. Parish's absence.

(e) Pension Board Election

The Chairman reported that his term as a Board member is expiring. However, Mr. Hohrein noted that Dr. Roepke is running unopposed for an additional term.

4. Approval of Minutes of November 15, 2006 and December 20, 2006 Meetings

(a) November 15, 2006 Minutes

The Chairman stated that the draft, rather than final, November 15, 2006 minutes were distributed in advance of and at the December 20, 2006 meeting. Therefore, the correct set of minutes was sent to the Board members for review, along with two additional corrections, subsequent to the December meeting.

The Board reviewed and approved the minutes of the November 15, 2006 Board meeting, 7-0-1. Mr. Ostermeyer abstained because he did not attend the November meeting. Motion by Mr. Cohen, seconded by Ms. Bedford.

(b) December 20, 2006 Minutes

The Board reviewed and unanimously approved the minutes of the December 20, 2006 meeting. Motion by Mr. Cohen, seconded by Mr. Parish.

Dr. Peck excused herself from the meeting.

5. Report of Retirement Systems Manager

(a) Ratification of Retirements Granted

Mr. Hohrein presented the Retirements Granted report for the prior month's retirements and asked the Board to review them. Mr. Hohrein stated that there had been fewer retirements than usual, but he expected the number of retirements to increase in the coming months.

The Board unanimously accepted the Retirements Granted report. Motion by Mr. Martin, seconded by Mr. Cohen.

(b) Report on Waivers

Mr. Hohrein reported that Cynthia Archer, the purchasing manager of the Department of Administrative Services, submitted a benefit enhancement waiver this month. He indicated that Ms. Archer used the standard ERS forms to submit her waiver.

The Board reviewed and unanimously accepted Ms. Archer's waiver. Motion by Mr. Cohen, seconded by Mr. Martin.

(c) Report on ADR Project

Mr. Hohrein reported on the status of the ADR overpayment recovery project. He distributed an ADR overpayment report and an ADR medical reexamination list. According to Mr. Hohrein, Dr. Bonner indicated that Richard Schmitt, who owes an amount to ERS as a result of an earnings test, is still disabled, but Dr. Bonner has not yet issued a written report. He also explained that the four earnings overpayments relate to members whose benefits should have been offset by the workers' earned income they receive in accordance with Ordinance section 201.24(10.2) and Rule 1010. The Ordinance and Rule state that any amounts which may be paid to a member as wages shall be offset against any pension benefits payable from ERS to the member. Mr. Grady explained that the offset can completely offset a member's pension benefits.

In response to a question from Mr. Ostermeyer, Mr. Grady stated that Barbara Adamski's attorney had contacted him and they are working on a settlement with respect to her overpayments.

Mr. Hohrein indicated that the ADR medical reexamination list sets forth all members who did not submit their tax returns to the Retirement Office. Accordingly, these members were ordered to undergo a reexamination. In

response to questions from the Chairman and Ms. Mayr, Mr. Hohrein noted that Ms. Aikin is currently tracking the reexaminations.

Mr. Hohrein stated that he will return to the Board to seek guidance regarding what to do when members do not send tax returns to the Retirement Office in the future. The Chairman inquired whether this process could be added to the Vitech system.

(d) Annual Meeting Draft Agenda

Mr. Hohrein distributed a draft agenda of the annual meeting for the Board's review

6. Investments

(a) Investment Manager Report – Hotchkis and Wiley

Mr. Miles made a presentation regarding Hotchkis and Wiley Capital Management ("Hotchkis and Wiley"). He distributed an investment review report to the Board.

Mr. Miles explained that Hotchkis and Wiley is headquartered in Los Angeles, California and is owned by the employees of the company. He noted that Hotchkis and Wiley follows a consistent and disciplined value approach and has a strong focus on fundamental research. Mr. Miles highlighted that Hotchkis and Wiley has over \$35 billion in assets.

Mr. Miles stated that Hotchkis and Wiley's value approach concentrates on long term results. He outlined Hotchkis and Wiley's disciplined research process and noted that it focuses on normal earnings. He noted that investor psychology can lead to irrational decisions resulting in the mispricing of stocks, where a value approach strives to avoid such problems.

In response to questions from Mr. Ostermeyer, Ms. Mayr and Ms. Bedford, Mr. Miles addressed analyst turnover, short term versus long term results and interest rates.

Mr. Miles provided an example of the long term investment strategy used by Hotchkis and Wiley to obtain positive results. He pointed out that Hotchkis and Wiley is investing in home building companies now while they are out of favor. He indicated that Hotchkis and Wiley believes those companies will provide good returns over the long term as home building rebounds, especially in the sunbelt.

He also discussed SL Green Realty Trust, one of the highest performing REITs in the benchmark. Finally, he reported that the returns on brokerage stocks were very good, despite some risk.

Mr. Miles agreed with Ms. Bedford that, because most subprime loans are variable and rates are currently inverted (short term rates are lower than long term rates), the rates lead to defaults over the short term, making these investments more risky.

Mr. Miles also stated that Hotchkis and Wiley's philosophy favors owning a company with a discount to its earnings, if all other factors are equal.

Mr. Martin noted that Hotchkis and Wiley's CFO was retiring after several decades in that position and asked whether that is a concern. Mr. Miles indicated that she announced her retirement five years ago and divided her functions among three people so that a system would be in place when she retired. He also noted that the CFO ran the back office and was not a part of the investment staff.

(b) Mercer Report

Mr. Blalock distributed the flash report for December 2006. He indicated that ERS had an aggregate market value of approximately \$1.6 billion at the end of December, representing an 0.8% increase during December, matching the Reference Index.

Mr. Blalock also reviewed market performance for December 2006. He explained that the large cap domestic equity market advanced 1.3% during the month, while small cap equity gained 0.3% in December. In addition, value outperformed growth in both the large and small cap arenas. He noted that international investment grade fixed income declined 0.6% during the month and high yield issues returned 1.1%.

Mr. Blalock next reported on ERS's investment allocation. He noted that ERS is slightly underweight in core fixed income and slightly overweight in high yield fixed income, relative to ERS's investment policy. He indicated that ERS was rebalanced in December with \$66 million added to the Mellon Capital Management Fixed Income Index Fund.

Mr. Blalock stated that the premiums for the month have been satisfactory, noting that the active managers have generally added value in December with a relatively low tracking error. In general, Mr. Blalock noted that 2006 was not a great year for active managers to beat the

benchmarks. However, he indicated that active managers were taking less risk, which was good.

Mr. Blalock reminded that Board that the REIT issue would be discussed at the February Investment Committee Meeting.

Mr. Blalock stated that Reinhart and Mahoney had a very successful year in 2006. Ms. Bedford reminded the Board that Reinhart and Mahoney had been retained as a mid cap manager as an experiment and had done very well. She inquired whether more ERS funds should be entrusted to Reinhart and Mahoney for management. Mr. Blalock stated that if managers are allowed to choose among strategies, there will be more tracking error. The Chairman asked that the manager selection discussion be continued at the next Investment Committee meeting.

7. Legal Update – Gerald Hanson Buy In Request

Mr. Shneidman appeared before the Board on behalf of Mr. Hanson. He alleged the following: Mr. Hanson worked for the County (at Hart Park) in the summer of 1969, as demonstrated by his Social Security Administration records. Mr. Hanson's position was funded through a federal grant. In addition, Mr. Hanson has worked full time for the County since 1987 in the Department of Aging. Mr. Shneidman stated that Susan Baldwin, also a County employee from the summer of 1969, applied, and was allowed, to purchase service credit for her time from 1969 as a seasonal employee pursuant to Rule 202.

In 2005 Mr. Hanson received a notice regarding an opportunity to "buy in" to ERS for previous service to the County. In February 2006, Mr. Hanson applied for the buy in option for his service during the summer of 1969.

Mr. Shneidman argued that Mr. Hanson had seasonal employment with the County in 1969 because he worked a summer job in the parks for six weeks clearing brush. In response to a question from Ms. Mayr, Mr. Shneidman indicated that Mr. Hanson was not given the option to contribute 6 percent of his compensation to join ERS as an optional member and that he was a non-represented employee.

The Chairman noted that a District Council 48 seasonal issue was currently before an arbitrator. However, Mr. Grady clarified that the District Council 48 issue relates to employees who work year round but are classified as seasonal, which was not the case with Mr. Hanson.

Ms. Mayr indicated, and Mr. Loeffel agreed, that Hart Park is not maintained by the County and was not maintained by the County in 1969.

The Chairman stated that, pursuant to Wisconsin Statutes section 19.85, the Board could enter closed session for conferring with the Pension Board's legal counsel, who is rendering oral or written advice with respect to litigation in which it is likely to become involved.

The Board unanimously agreed by roll call vote to enter into closed session to further consider Item 7. Motion by Mr. Cohen, seconded by Mr. Ostermeyer.

Upon returning to open session, the Board unanimously agreed to deny the buy in request of Mr. Hanson because, the Board, in its discretion, concluded that Mr. Hanson was not an optional or seasonal employee in 1969 and, therefore, was not eligible to participate in the buy in program. In addition, the Board unanimously agreed to have counsel investigate and take any necessary action regarding Ms. Baldwin's buy in to ERS for her prior service credit. Motion by Mr. Ostermeyer, seconded by Mr. Weber.

8. Closed Session

The Chairman stated that, pursuant to Wisconsin Statute Section 19.85, the Board could enter closed session for considering financial, medical, social or personal information which could have an adverse effect on the reputation of an ERS member. For example, the Board may elect to enter closed session to discuss an individual's retirement or disability application, an individual's waiver request or a possible rule change or application of a rule relating to forms of benefits for retirees. He noted the Board may also enter closed to confer with the Board's legal counsel who is rendering oral or written advice concerning strategy to be adopted with respect to litigation in which it is or is likely to become involved.

The Board unanimously agreed by roll call vote to enter into closed session to consider items 9 and 10. Motion by Mr. Cohen, seconded by Mr. Parish. Mr. Ostermeyer and Ms. Mayr recused themselves from the closed session discussion of item 9.

9. Special Waiver Request – E. Michael McCann

Upon returning to open session, the Board agreed to take the following actions with respect to Mr. McCann's request to submit a nonstandardized benefit waiver:

- (a) Deny the special waiver request for E. Michael McCann due to the administrative, fiduciary and legal concerns potentially associated with accepting the waiver.**
- (b) Offer Mr. McCann the opportunity to sign the standard waiver form for the final average salary "bonus" benefit enhancement, if Mr. McCann would desire to waive that benefit.**
- (c) Accept for deposit into ERS future monthly payments from Mr. McCann, by check or other appropriate means, representing the amount of the benefit Mr. McCann would desire to waive, if Mr. McCann declines to execute the standard waiver form.**

The resolution passed on a vote of 6-0-2, with Mr. Ostermeyer and Ms. Mayr abstaining due to recusals.

10. Final Rule for the Loss of Pension

Upon returning to open session, the Board unanimously agreed to adopt Rule 807, with amendments discussed in closed session, as attached to these minutes. Motion by Mr. Cohen, seconded by Mr. Weber.

In response to a question from Mr. Grady, the Chairman clarified that Rule 806 was suspended at the December 20, 2006 meeting. In addition, the Board discussed that the County Board still needs to act regarding this issue.

11. Disability Application Reexaminations – Informational Only

The Board reviewed the reexamination reports on Fanny Ellis and Bobby Adams. The Board discussed that the reexamination report on Fanny Ellis did not contain any new data, but rather served as a summary of old data. Mr. Grady noted that the reexaminations could be improved. Ms. Mayr requested that the Retirement

Office staff ask the Medical Board to use more current medical evidence to the extent possible. Mr. Hohrein stated he would work to improve these reports.

12. Administrative Matters

(a) Continuing Education, Board Retreats, Training and Professional Organizations

The Board did not discuss any continuing education, board retreat or training and professional organizations issues.

(b) Future Board Topics

A list of additional Board topics for February 2007 Board meetings was distributed. The list included topics for the annual meeting, the Audit and Compliance Committee meeting and the Investment Committee meeting.

In addition, Ms. Mayr raised an administrative concern regarding the communications to retirees. She stated that members of REMCO should participate in the design and content of these communications. She explained that the annual meeting notice would be an example of one of these communications.

13. Adjournment

The meeting adjourned at 12:42 p.m.

Submitted by Steven D. Huff,
Assistant Secretary to the Pension Board

AMENDMENT TO THE RULES OF
THE PENSION BOARD OF THE EMPLOYEES'
RETIREMENT SYSTEM OF THE
COUNTY OF MILWAUKEE

RECITALS

1. Section 201.24(8.1) of the General Ordinances of Milwaukee County (the "Ordinances") provides that the Pension Board of the Employees' Retirement System of the County of Milwaukee (the "Pension Board") is responsible for the general administration and operation of the Employees' Retirement System of the County of Milwaukee ("ERS").
2. Ordinance section 201.24(8.6) allows the Pension Board to establish rules for the administration of ERS.
3. Ordinance section 201.24(4.5) provides, in relevant part, that a member shall be eligible for a deferred vested pension if his employment is terminated for any reason, other than fault or delinquency on his part.
4. ERS Rule 806 provides that the determination of whether a member's employment was terminated for fault or delinquency on his part shall be determined solely by the Personnel Review Board of Milwaukee County and that the Pension Board shall rely on the determination of fault or delinquency made by the Personnel Review Board and shall not independently or separately determine whether a member's termination resulted from fault or delinquency because it believes the Personnel Review Board is operating appropriately.
5. ERS Rule 806 further provides that the Pension Board may periodically review the operation of the Personnel Review Board to determine whether it continues to operate appropriately.
6. In *District Council 48, AFSCME v. Milwaukee County et al*, the Wisconsin Supreme Court held that Milwaukee County (the "County") may not deny pension benefits to any ERS member who has satisfied the minimum requirements of creditable service for a deferred vested pension without first providing the member a hearing to determine whether the member's employment was terminated due to fault or delinquency.
7. The Wisconsin Supreme Court further directed the County to establish standards for determining whether a member's employment is terminated due to fault or delinquency.

8. The County is considering a proposal concerning standards for determining whether a member's conduct constitutes fault or delinquency and procedures for providing a hearing to determine whether the member's employment was terminated due to fault or delinquency.

9. Some ERS members who were discharged from County employment by the Personnel Review Board are currently requesting deferred vested pension benefits from ERS.

10. Until such time as the County adopts other standards or procedures, the Pension Board wishes to establish standards for determining whether a member's conduct constitutes fault or delinquency and procedures for providing a hearing to determine whether the member's employment was terminated due to fault or delinquency.

RESOLUTIONS

1. The Pension Board hereby suspends the operation of ERS Rule 806 until such date as the Pension Board determines is appropriate.

2. Pursuant to Ordinance section 201.24(8.6), the Pension Board hereby creates and adopts Rule 807 to read as follows:

807. Fault and Delinquency.

(a) **General Rule.** Pursuant to section 201.24(4.5) of the General Ordinances of Milwaukee County, a member forfeits his right to a deferred vested pension benefit if his employment with the County is terminated due to fault or delinquency on his part.

(b) **Fault or Delinquency Standard.** Until section 201.24(4.5) is amended to provide otherwise or the Pension Board adopts other rules, for purposes of section 201.24(4.5), a member's employment is considered to be terminated for fault or delinquency on his part if it is terminated due to conduct resulting in a felony offense charge if the circumstances of the charge substantially relate to the circumstances of the member's particular job and the member is ultimately convicted of such felony offense.

(c) **Determination.** Upon application for a deferred vested pension benefit by a member who has been, or who the Pension Board reasonably believes may be, convicted of a felony offense described in Rule 807(b), the Pension Board shall review the member's application and determine at a meeting whether the member's employment was terminated due to fault or delinquency pursuant to

Rule 807(b). The applicant may appear at the meeting and may be represented at the meeting by counsel. The Pension Board may delay a decision on any application until pending felony charges are resolved.

(d) **Suspension of Benefits.** In the event a member is convicted of a felony offense described in paragraph 807(b) after benefit payments have commenced, the Pension Board shall review the member's retirement and suspend further payment of benefits if it determines that the member's employment was terminated due to fault or delinquency on his part pursuant to Rule 807(b). In its discretion, the Pension Board may seek repayment of benefits already distributed to the member.

(e) **Hearing Examiner.** The Pension Board may refer the determination under Rule 807(c) to a hearing examiner in the same manner as set forth in section 201.24(4.9)(11) of the General Ordinances of Milwaukee County.

3. Sections 1 and 2 shall be effective January 17, 2007.